

A RESOLUTION ESTABLISHING LOCAL BOUNDARIES  
AND GOVERNING POLICY REGARDING A  
MUNICIPAL RIVERFRONT DEVELOPMENT PROJECT,  
TO BE KNOWN AS THE DOWNTOWN DINING DISTRICT

WHEREAS, the City of Fort Wayne ("City") desires to continue the current progress in the redevelopment of downtown, as envisioned by the adoption in 2003 of the Downtown Fort Wayne Blueprint for the Future (the "Blueprint"); a long term downtown action plan calling for the development of foundational economic development tools to enhance downtown development opportunities; and

WHEREAS, the City incorporated the Blueprint by reference in the Allen County-Fort Wayne Comprehensive Plan in 2007; and

WHEREAS, IC 7.1-3-20-16, a copy of which is attached hereto as Exhibit A, authorizes the issuance of certain, non-transferable permits to sell alcoholic beverages for on-premise consumption in a restaurant on land or in a historic river vessel within a municipal riverfront development project, without regard to the quota provisions of IC 7.1-3-22; and

WHEREAS, IC 7.1-3-20-16.1(d), a copy of which is attached hereto as Exhibit B, specifies the location criteria to qualify for a alcohol permit within a municipal riverfront development project; and

WHEREAS, Title 905, IAC Rule 47, a copy of which is attached hereto as Exhibit C, specifies the additional requirements to qualify for a alcohol permit within a municipal riverfront development project, for locations in excess of 1500 feet from the river's floodplain; and

WHEREAS, the City's Common Council ("Common Council") desires to designate an area of the downtown as the City of Fort Wayne Municipal Riverfront Development Project (the "Project"), as identified on the map attached hereto as Appendix A, as may be amended from time to time, including properties contiguous to the boundaries of the Project on both sides of defined right-of-way; and

1 WHEREAS, the designation will allow the issuance of off-quota permits to  
2 sell alcoholic beverages within that portion of downtown comprising the Project  
3 under certain local criteria and policies, issued and administered by the Downtown  
4 Dining District Review Committee (DDDRC), which shall be in accordance with local  
5 and state laws; and

6 WHEREAS, proprietor-applicants interested in obtaining an alcohol permit  
7 authorized under IC 7.1-3-20-16 shall comply with all requirements and  
8 administrative rules issued by the Indiana Alcohol and Tobacco Commission; and

9 WHEREAS, proprietor-applicants interested in obtaining an alcohol permit  
10 authorized under IC 7.1-3-20-16 shall comply with the local criteria and policies  
11 issued by the DDDRC;

12 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF  
13 THE CITY OF FORT WAYNE, INDIANA,

14 **Section 1:** That the City, under the authority of Indiana Code 36-7-14, hereby  
15 establishes the City of Fort Wayne Municipal Riverfront Development  
16 Project, to be known as the "Downtown Dining District", the  
17 boundaries of which are established in attached Appendix A, for the  
18 purpose of making the designated area eligible for the issuance of  
19 permits as provided under Indiana Code 7.1-3-20-16 and 16.1.

20 **Section 2:** That this resolution shall be in full force and effect from and after its  
21 passage and approval by the Mayor, unless rescinded by resolution  
22 by the legislative body.

23  
24 \_\_\_\_\_  
Thomas E. Smith, Council Member

25  
26 APPROVED AS TO FORM AND LEGALITY

27 \_\_\_\_\_  
28 Joseph G. Bonahoom, Attorney for City Council  
29  
30

**IC 7.1-3-20-16**

**Airport restaurants; restaurants in certain economic development areas; redevelopment projects or districts, historic river vessels, cultural centers, historic districts**

*Revisor's Note: See IC 1-1-3.5-8(b) concerning the effective date of this section as amended by P.L.6-2012, SEC.59.*

Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to the following:

(1) A town that:

(A) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(B) has a population of more than twenty thousand (20,000) but less than twenty-three thousand seven hundred (23,700).

(2) A city that has an indoor theater as described in section 26 of this chapter.

(g) The commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than seven hundred (700) feet from a district, that meets the following requirements:

(1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.

(2) A county courthouse is located within the district.

(3) A historic opera house listed on the National Register of Historic Places is located within the district.

(4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within seven hundred (700) feet of the district. A permit issued under this subsection shall not be transferred. The total number of active permits issued under this subsection may not exceed ten (10) at any time. The cost of an initial permit issued under this subsection is six thousand dollars (\$6,000).

(h) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

(1) a town with a population of more than twenty thousand (20,000); or

(2) a city with a population of more than forty-four thousand five hundred (44,500) but less than forty-five thousand (45,000);

located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred eleven thousand (111,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in

subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars (\$35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars (\$1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the

ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(i) After June 30, 2006, the commission may issue not more than five (5) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:

(1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.

(2) A unit of the National Park Service is partially located within the district.

(3) An international deep water seaport is located within the district.

An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues five (5) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed five (5) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission.

*(Formerly: Acts 1973, P.L.55, SEC.1.) As amended by P.L.85-1985, SEC.14; P.L.78-1986, SEC.6; P.L.103-1989, SEC.2; P.L.72-1991, SEC.2; P.L.12-1992, SEC.56; P.L.277-1993(ss), SEC.131; P.L.15-1994, SEC.6; P.L.170-2002, SEC.55; P.L.155-2005, SEC.1; P.L.214-2005, SEC.48; P.L.224-2005, SEC.16; P.L.1-2006, SEC.148; P.L.165-2006, SEC.27; P.L.10-2010, SEC.7; P.L.71-2012, SEC.3; P.L.119-2012, SEC.80.*

**IC 7.1-3-20-16.1**

**Municipal riverfront development project; alcoholic beverage permit requirements**

Sec. 16.1. (a) This section applies to a municipal riverfront development project authorized under section 16(d) of this chapter.

(b) In order to qualify for a permit, an applicant must demonstrate that the municipal riverfront development project area where the permit is to be located meets the following criteria:

(1) The project boundaries must border on at least one (1) side of a river.

(2) The proposed permit premises may not be located more than:

(A) one thousand five hundred (1,500) feet; or

(B) three (3) city blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit premises are located within:

(A) an economic development area, a redevelopment project area, an urban renewal area, or a redevelopment area established under IC 36-7-14, IC 36-7-14.5, or IC 36-7-15.1;

(B) an economic development project district under IC 36-7-15.2 or IC 36-7-26; or

(C) a community revitalization enhancement district designated under IC 36-7-13-12.1.

(4) The project must be funded in part with state and city money.

(5) The boundaries of the municipal riverfront development project must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9(3) or IC 36-1-2-9(4)) of the city in which the project is located.

(c) Proof of compliance with subsection (b) must consist of the following documentation, which is required at the time the permit application is filed with the commission:

(1) A detailed map showing:

(A) definite boundaries of the entire municipal riverfront development project; and

(B) the location of the proposed permit within the project.

(2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal riverfront development project.

(3) Detailed information concerning the expenditures of state and city funds on the municipal riverfront development project.

(d) Notwithstanding subsection (b), the commission may issue a permit for premises, the location of which does not meet the criteria of subsection (b)(2), if all the following requirements are met:

(1) All other requirements of this section and section 16(d) of this chapter are satisfied.

(2) The proposed premises is located not more than:

(A) three thousand (3,000) feet; or

(B) six (6) blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit applicant satisfies the criteria established by the commission by rule adopted under IC 4-22-2. The criteria established by the commission may require that the proposed premises be located in an area or district set forth in subsection (b)(3).

(4) The permit premises may not be located less than two hundred (200) feet from facilities owned by a state educational institution.

(e) A permit may not be issued if the proposed permit premises is the location of an existing three-way permit subject to IC 7.1-3-22-3.

*As added by P.L.72-2004, SEC.11. Amended by P.L.155-2005, SEC.2 and P.L.214-2005, SEC.49; P.L.185-2005, SEC.2; P.L.1-2006, SEC.149; P.L.2-2007, SEC.131.*

**Rule 47. Municipal Riverfront Development Projects**

**905 IAC 1-47-1 Application**

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-20-16

Sec. 1. Application. This rule applies to an application for a permit located in a municipal riverfront development project pursuant to IC 7.1-3-20-16 where the proposed premises is located more than one thousand five hundred (1,500) feet but not more than three thousand (3,000) feet or more than three (3) blocks but not more than six (6) blocks from the river, whichever is greater.

*(Alcohol and Tobacco Commission; 905 IAC 1-47-1; filed Aug 10, 2004, 3:30 p.m.: 27 IR 4021; readopted filed Nov 22, 2010, 2:11p.m.: 20101222-IR-905100555RFA)*

**905 IAC 1-47-2 Eligibility for permit**

Authority: IC 7.1-2-3-7

Affected: IC 4-23-2; IC 7.1-3-20-16; IC 36-7

Sec. 2. The commission may issue a permit pursuant to IC 7.1-3-20-16 for a premises, which is located within the area described in section 1 of this rule, if the following conditions are met:

- (1) The proposed permit premises must be located within the original boundaries of the municipal riverfront development project as set forth in IC 7.1-3-20-16.1(c)(1)(A).
- (2) The area within the original boundaries of the municipal riverfront development project is:
  - (A) blighted under IC 36-7-14 or IC 36-7-15.1;
  - (B) a redevelopment area under IC 36-7-14.5;
  - (C) an economic development area under IC 36-7-15.2 or IC 36-7-26; or
  - (D) a historic district established under IC 36-7-11, IC 36-7-11.1, IC 36-7-11.3, or IC 14-3-3.2 (before its repeal); and
- (3) The proposed permit premises is located in a building or structure which is designated historical pursuant to subdivision 2(D) of this rule and used primarily in connection with a community-based activity or event that is artistic or cultural in nature, including, but not limited to, music, including folk, contemporary, classical, or jazz; theatre, including media arts; dance, including contemporary or ballet; painting; sculpture; and architecture; and which may be eligible for funding from the Indiana arts commission pursuant to IC 4-23-2.

*(Alcohol and Tobacco Commission; 905 IAC 1-47-2; filed Aug 10, 2004, 3:30 p.m.: 27 IR 4021; readopted filed Nov 22, 2010, 2:11p.m.: 20101222-IR-905100555RFA)*

#### **905 IAC 1-47-3 Proof of compliance criteria**

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-20-16

Sec. 3. Proof of compliance with this rule must consist of the following documentation, which is required at the time the permit application is filed with the commission:

(1) A detailed map showing:

(A) definite boundaries of the entire municipal riverfront development project; and

(B) the location of the proposed permit within the project.

(2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal riverfront development project.

(3) Detailed information concerning the expenditures of state and city funds on the municipal riverfront development project.

(4) A listing of the types of events being held at the proposed permit premises pursuant to section 2(3) of this rule; and

(5) Information concerning historical characteristics of the permit premises, including, but not limited to, the age and significance within the municipality.

*(Alcohol and Tobacco Commission; 905 IAC 1-47-3; filed Aug 10, 2004, 3:30 p.m.: 27 IR 4021; readopted filed Nov 22, 2010, 2:11p.m.: 20101222-IR-905100555RFA)*

#### **905 IAC 1-47-4 Nude dancing excluded**

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-20-16

Sec. 4. For purposes of this rule, subsection (2)(c) *[sic.]* does not include activities described in 905 IAC 1-16.1-3. *(Alcohol and Tobacco Commission; 905 IAC 1-47-4; filed Aug 10, 2004, 3:30 p.m.: 27 IR 4021; readopted filed Nov 22, 2010, 2:11 p.m.: 20101222-IR-905100555RFA)*

#### **905 IAC 1-47-5 Area incapable of development; alternative measurements**

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-20-16

Sec. 5. If the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in section 1 of this rule are measured from the city blocks located nearest to the river that are capable of being developed. *(Alcohol and Tobacco Commission; 905 IAC 1-47-5; filed Aug 10, 2004, 3:30 p.m.: 27 IR 4021; readopted filed Nov 22, 2010, 2:11 p.m.: 20101222-IR-905100555RFA)*

**905 IAC 1-47-6 "Original boundaries" defined**

Authority: IC 7.1-2-3-7

Affected: IC 7.1-3-20-16

Sec. 6. For purposes of this rule, the term "original boundaries" means the initial geographic parameters or boundaries of the municipal riverfront development project as determined by the governing body. *(Alcohol and Tobacco Commission; 905 IAC 1-47-6; filed Aug 10, 2004, 3:30 p.m.: 27 IR 4021; readopted filed Nov 22, 2010, 2:11 p.m.: 20101222-IR-905100555RFA)*

**905 IAC 1-47-7 For-profit status; not disqualifying**

Authority: IC 7.1-2-3-7

Affected: IC 4-23-2; IC 7.1-3-20-16

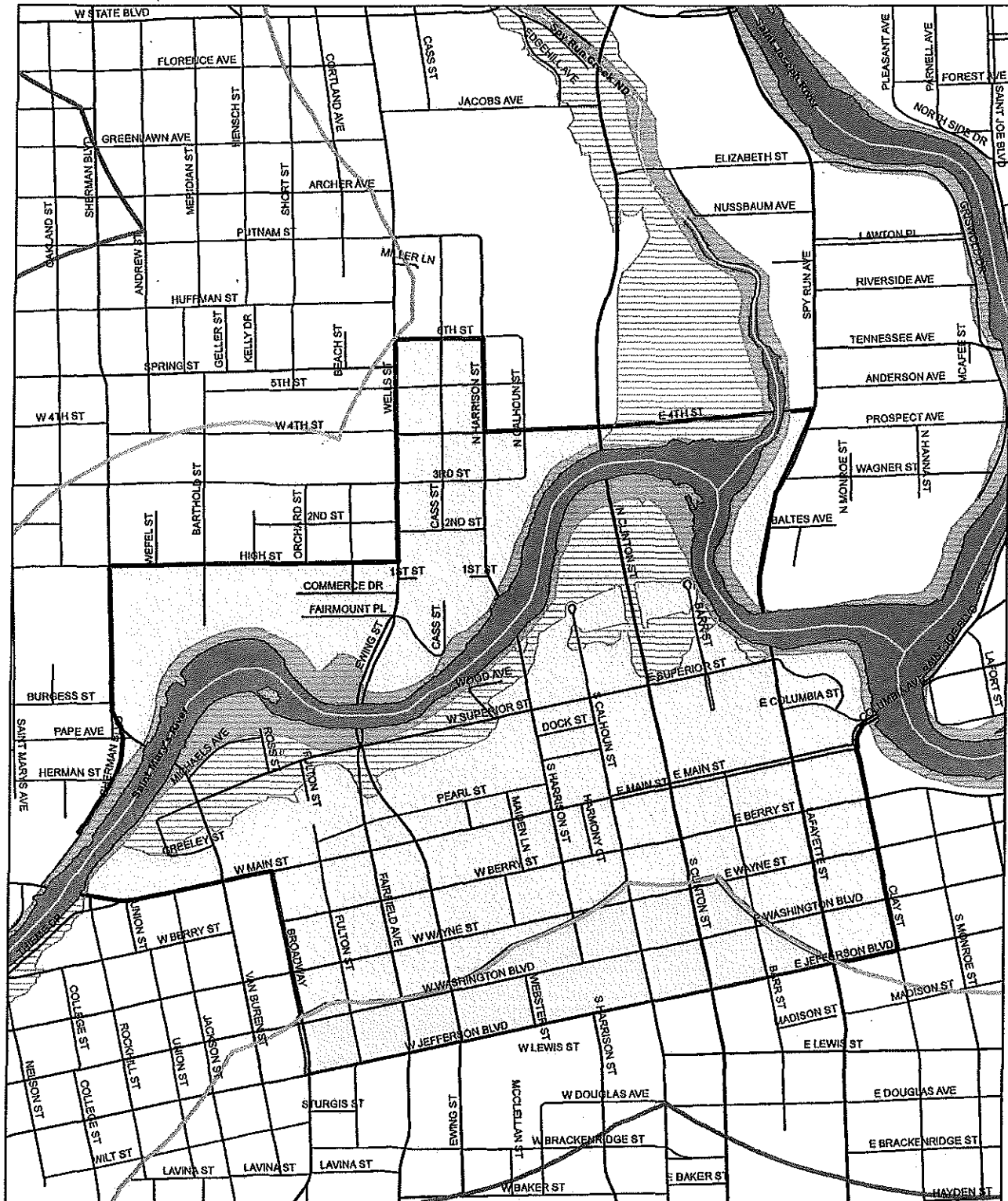
Sec. 7. For purposes of this rule, the for-profit status of an entity applying for a permit shall not disqualify it for further consideration by the commission if it otherwise meets the criteria for eligibility of funding by the Indiana arts commission pursuant

to IC 4-23-2. *(Alcohol and Tobacco Commission; 905 IAC 1-47-7; filed Aug 10, 2004, 3:30 p.m.: 27 IR 4022; readopted filed Nov 22, 2010, 2:11 p.m.: 20101222-IR-905100555RFA)*

**Legend**

-  Downtown Dining District-Tier 1
-  Downtown Dining District - Tier 2
-  Boundary 3000 ft from edge of AE Zone
-  Boundary 1500 ft from edge of AE Zone
-  AE Zone: Floodway and 1% / 100 yr floodplain
-  Floodway

## DOWNTOWN DINING DISTRICT



Although every effort has been made to ensure the accuracy of the data, the user assumes all responsibility for the use of the information. The user should verify the information with the appropriate authorities before using it for any purpose. The information is provided as a reference only and should not be used for any other purpose.

Flood data is from 2009/Amended 2011 and reference only. Always check with OPS Flood Control before starting any project near an AE zone.

Revised Nov 18, 2012. Revised July 31, 2013  
 Prepared by: [Name] and [Name]  
 Checked by: [Name]  
 Approved by: [Name]

0 375 750 1,500 Feet



May 10, 2013

City Council of Fort Wayne  
Citizens Square 200 E. Berry St., Suite 120  
Fort Wayne, Indiana 46802

**RE: DOWNTOWN DINING DISTRICT**

Members of the City Council,

The members of the Board of the Downtown Development District ("DID") would like to express our support for the Downtown Dining District as presented by City Staff during our April 16, 2013 Board meeting.

Like other communities throughout Indiana, this proposal would allow downtown business owners to take advantage of IC 7.1-3-20-16, authorizing three-way liquor licenses to be issued without regard to the quota provisions defined by the Alcohol and Tobacco Code (ATC). Specifically, the DID Board is supportive of the evaluation criteria outlined by the proposed ordinance, requiring participants to:

- have a minimum of 50% of sales must be non-alcoholic,
- be actively open for business a minimum of 300 days per year,
- have evening hours a minimum of 5 nights per week, and
- submit an annual contribution of \$2,500 to a district-wide Marketing Fund.

While we realize these as the criteria for participation within the program, we hope the City will use this opportunity to incentivize the growth of locally owned and operated dining venues within the downtown. In partnership with the program, the DID is prepared to assist in leading the formation of a Downtown Restaurant Association to support the marketing goals envisioned. As shown by the success of this program in other communities, we are optimistic that this effort will encourage the future growth and development of our urban core. With that, the DID acknowledges and supports the Downtown Dining District ordinance submitted for consideration to the City Council and would urge you to approve the proposal as submitted.

Sincerely,

Zachary Benedict, *Chairman*  
DID Board of Directors

Cc: DID File

111 West Wayne Street  
Fort Wayne, Indiana 46802  
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[www.downtownFORTWAYNE.com](http://www.downtownFORTWAYNE.com)



August 6, 2013

Fort Wayne City Council  
200 East Berry Street  
Fort Wayne, IN 46802

Re: Downtown Dining District

Dear City Council Members,

Young Leaders of Northeast Indiana (YLNI) would like to express its support for the proposed Downtown Dining District. Our mission is to attract, develop, and retain emerging leaders through community, professional, and social engagement. We believe initiatives like this will spur growth and contribute to the attachment of young professionals to our community.

The proposed Downtown Dining District will allow business owners and entrepreneurs, who qualify under criteria outlined by the ordinance, to obtain special three-way liquor licenses outside the statutory quota system. We believe this tool will help expand the offerings of locally owned and operated dining venues downtown. The more dining choices available will attract young professionals to dine and visit other attractions downtown.

We surveyed our members on this topic and the results were overwhelming in favor of this initiative. Our members expressed their support and enthusiasm for programs that will contribute to the revitalization of downtown.

YLNI supports and urges you to approve the creation of a Downtown Dining District.

Sincerely,

Sam Graves  
President  
Young Leaders of Northeast Indiana